



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

June 20, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

KENT FOSTER
HOLDEN KIDWELL HAHN & CRAPO
1000 RIVERWALK DR STE 200
PO BOX 50130
IDAHO FALLS ID 83405

via Facsimile (208) 523-9518
(original to follow)

Re: Petition to Remove Watermaster of Water District no. 34

Dear Mr. Foster:

You mailed a letter to Nick Miller of the Idaho Department of Water Resources ("Department") on June 13, 2006. You sent me a copy of the letter. The letter alleges that the Watermaster of Water District no. 34 has failed or refused, and continues to fail or refuse to perform his duties. The letter requests "the director to instruct, educate and direct the watermaster and to enforce the requirements of the statutes and rules." Finally the letter states "there should definitely be a hearing."

On March 30, 2006, I wrote a letter to you and Bob Duke, Watermaster for Water District no. 34, responding to your petition to remove the watermaster. In the letter, I stated that your petition created a contested case before the Department and designated myself as the hearing officer. I remind you that written communication with the hearing officer must be served on all parties. With this letter, I am forwarding a copy of your letter to Bob Duke and to others, including the advisory committee.

Based on a previous staff memorandum written by Nick Miller, dated May 19, 2006 summarizing the Department's investigation, the Department is prepared to issue written instructions to the Watermaster of Water District no. 34. The sufficiency of these instructions can be challenged under Idaho Code § 42-1701A by requesting a hearing following issuance of the instructions. The text of your June 13, 2006 letter and language in other letters suggest that the purpose of your request to remove the watermaster was to insure that the director instructs, educates, and directs the watermaster and that the watermaster complies with the instructions.

If the intent of your June 13, 2006 is to affirm your desire to hold a hearing to remove the watermaster, the Department may forego issuing instructions to the watermaster until after the hearing for removal is held. Following the hearing, and based on the evidence in the record, the Department could remove the watermaster, or retain the watermaster and issue written instructions based on the record.

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If you want the Department to expeditiously issue written instructions, I ask that you consent, in writing, to a delay in the hearing for removal of the watermaster. Conversely, if you want to pursue watermaster removal prior to issuance of the instructions, you should also expressly state, in writing, that you want to expedite the hearing. If so, I will attempt to schedule the hearing as soon as possible.

On or before June 26, 2006, please either consent, in writing, to a delay in the hearing pending the director's instructions to the watermaster, or request, in writing, to expedite the hearing prior to issuance of watermaster instructions.

Respectfully,


Gary Spackman

Cc: Bob Duke, Watermaster, Water Dist. 34 (w/encl.)
Water District 34 Advisory Committee (w/encl.)